

**Federal Trade Commission****16 CFR Part 13**

[Docket 8824]

**Glendinning Cos, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions****AGENCY:** Federal Trade Commission.**ACTION:** Notice of 30 day period for public comments on petition by Glendinning Associates, Inc., successor under the order issued against Glendinning Companies, Inc., to reopen and modify the order in Docket No. 8824.**SUMMARY:** Glendinning Associates, Inc., successor to Glendinning Companies, Inc., in the order in Docket No. 8824, filed a petition on September 15, 1986, requesting that the Commission reopen and modify the order.**DATE:** The deadline for filing comments in this matter is November 10, 1986.**ADDRESS:** Comments should be sent to the Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580. Requests for copies of the petition should be sent to the Public Reference Branch, Room 130.**FOR FURTHER INFORMATION CONTACT:** Jerry R. McDonald, Enforcement Division, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580, (202) 376-2800.**SUPPLEMENTARY INFORMATION:** The petitioner, Glendinning Associates, Inc., develops and conducts promotional games and contests for businesses purchasing its services. The order modifications requested by the petitioner would relax restrictions on games of skill. The petition was placed on the public record on October 9, 1986.**List of Subjects in 16 CFR Part 13**

Promotional games and contests, Trade practices.

Emily H. Rock,  
*Secretary.*[FR Doc. 86-24047 Filed 10-23-86; 8:45 am]  
BILLING CODE 6750-01-M**16 CFR Part 13**

[Docket C-2774]

**Lindal Cedar Homes, Inc.; Prohibited Trade Practices and Affirmative Corrective Actions****AGENCY:** Federal Trade Commission.**ACTION:** Notice of 30 day public comment period on Petition by Lindal Cedar Homes, Inc. to reopen and

terminate the order issued in Docket No. C-2774.

**SUMMARY:** Lindal Cedar Homes, Inc. has petitioned the Federal Trade Commission to vacate a 1976 consent order issued in Docket No. C-2774 with the company concerning sales of pre-cut home kits and distributorships.**DATE:** The deadline for filing comments in this matter is November 10, 1986.**ADDRESS:** Comments should be sent to the Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580. Requests for copies of the petition should be sent to the Public Reference Branch, Room 130.**FOR FURTHER INFORMATION CONTACT:** Sarah L. FitzGerald, Attorney, Enforcement Division, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580, (202) 376-2891.**SUPPLEMENTARY INFORMATION:** The order settled FTC charges that Lindal misrepresented the ease of assembling the kits; used unfair contract terms; failed to make timely and complete deliveries; misled potential franchisees; violated credit terms and misled purchasers as to their warranty rights. The order requires Lindal to have a reasonable basis for ad claims, modify its sales agreements; offer a warranty; establish a complaint-handling system; provide complete information to potential franchisees and comply with the credit law. The petition to vacate was filed on September 26, 1986.**List of Subjects in 16 CFR Part 13**Pre-cut home kits, Trade practices.  
Emily H. Rock,  
*Secretary.*[FR Doc. 86-24048 Filed 10-23-86; 8:45 am]  
BILLING CODE 6750-01-M**DEPARTMENT OF LABOR****Employment and Training Administration****20 CFR Part 615****Federal-State Unemployment Compensation Program; Extended Benefits; Revision of Regulations; Proposed Rulemaking****AGENCY:** Employment and Training Administration, Labor.**ACTION:** Notice of proposed rulemaking.**SUMMARY:** The Extended Benefit Program is a part of the Federal-State

Unemployment Compensation Program, and takes effect during periods of high unemployment to furnish up to 13 weeks of additional benefits to individuals who have exhausted their rights to regular benefits under permanent State and Federal unemployment compensation laws. The Employment and Training Administration of the Department of Labor is proposing to revise the regulations for the Extended Benefit Program to reflect recent changes in the law regarding eligibility for Extended Benefits and reimbursement of the Federal share of Extended Benefits. These revisions clarify some of those requirements and the timing of them, and correct obsolete language in several places. Last, the revisions extend the present "freeze" on the indicator rates for insured unemployment to cover all determinations of insured unemployment rates, and specify a time period for correcting errors in the determination of "on," "off," or "no change" indicator rates of insured unemployment.

**DATE:** Written comments must be received by the close of business on November 24, 1986.**ADDRESS:** Submit comments to Carolyn M. Golding, Director, Unemployment Insurance Service, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.**FOR FURTHER INFORMATION CONTACT:** Lorenzo Roberts, Group Chief, Division of Program Development and Implementation, Unemployment Insurance Service, U.S. Department of Labor, Room 7430 Patrick Henry Building, 601 D Street, NW., Washington, DC 20213, Telephone: (202) 376-7366 (this is not a toll-free number).**SUPPLEMENTARY INFORMATION:** Part 615, Chapter V, Title 20 of the Code of Federal Regulations implements the Federal-State Extended Unemployment Compensation Act of 1970 (Title II of Pub. L. 91-373) (the "EUCA"), 26 U.S.C. 3304 note. That Act prescribes provisions required to be included in State unemployment compensation laws. It is made a requirement for State laws by section 3304(a)(11) of the Internal Revenue Code of 1954. The Act was amended in 1980, 1981, 1982, and 1983 to change the requirements for State laws in a number of ways.**1980 Amendments to EUCA**

Section 416 of Pub. L. 96-364 added section 202(c) to the EUCA, and bars more than 2 weeks of Extended Benefit payments to individuals under the

Interstate Benefit Payment Plan if they file claims in a State where an Extended Benefit Period is not in effect. This amendment was effective on June 1, 1981, in most States.

Section 1022 of Pub. L. 96-499 amended section 204(a)(2) of the EUCA to add a provision limiting Federal reimbursement of benefits to a State which does not require a waiting period for regular benefits. Sections 615.14(a)(4), (5) and (6) establish the effective dates under varying State circumstances. This amendment affects a State's entitlement to Federal sharing in the costs of regular and Extended Benefits, but is not a requirement for State laws.

Section 1024 of Pub. L. 96-499 added sections 202(a)(3), (4) and (5) of the EUCA. Paragraph (3) requires amendment of State laws to include specific provisions defining suitable work as any work which is within an individual's capabilities, except that if the individual's prospects of obtaining work in his customary occupation in a reasonably short period are determined to be good, then suitable work is determined under the provisions in State law applicable to claimants for regular benefits; and includes a specific disqualification for failure to accept suitable work, or to apply for suitable work when referred by a State employment office, or to actively search for work. Paragraph (4) requires that disqualifications for voluntarily leaving of employment, discharge for misconduct and refusal of suitable work shall not be considered terminated for the purpose of qualifying for Extended Benefits except by employment subsequent to the disqualifications. Paragraph (5) (redesignated as (6) in the 1981 amendments, which added a new paragraph (5)) prohibits Federal sharing in regular benefit costs if the State does not apply the rules of paragraphs (3) and (4) in paying such benefits. Paragraphs (3) and (4) are requirements for State laws; paragraph (5), like section 204(a)(2), is not a requirement for State laws. These new requirements took effect in all States on April 1, 1981.

#### 1981 Amendments to EUCA

Sections 2401 through 2404 and sections 2505 and 2506 of Pub. L. 97-35 made several changes in the conditions under which Extended Benefits trigger on or off by eliminating the National trigger, changing the standard State trigger from 4.0 percent to 5.0 percent, the optional State trigger from 5.0 percent to 6.0 percent, and changing the definition of the "rate of insured unemployment" by eliminating claims for Extended Benefits and additional

compensation. Other amendments prohibit paying benefits to individuals with little qualifying employment, and make changes to tie into the amendments to the Trade Act of 1974. Changes in §§ 615.4, 615.7, 615.12 and 615.13 reflect those amendments.

#### 1982 Amendment to EUCA

Section 191 of Pub. L. 97-248 amended section 204(a)(2) to add a new subparagraph (D), which provides that States which do not provide for a benefit structure under which benefits are rounded down to the next lower dollar amount shall not be entitled to or be reimbursed for the Federal 50 percent share on the amount by which sharable regular and sharable extended compensation paid exceed the lower dollar amount. This amendment became effective for benefits paid for eligibility periods beginning on or after October 1, 1983, with a grace period for States that require legislation to provide for rounding down.

#### 1983 Amendment to EUCA

Section 522 of Pub. L. 98-21 amended section 202(a)(3)(A)(ii) to provide exemptions to the requirement that claimants actively engage in seeking work: (1) If the individual is serving on jury duty under specified circumstances, and (2) if the individual is hospitalized for an emergency or life-threatening condition. A State may apply these exemptions to claimants for Extended Benefits only if the exemptions also apply to claimants for regular benefits. Section 615.2(o)(11) and (12) define the terms "jury duty" and "hospitalized for treatment of an emergency or life-threatening condition." The amendment to section 202(a)(3)(A)(ii) became effective on enactment, April 20, 1983.

#### Other Changes

Other technical and clarifying changes are made throughout the regulations.

**Note.**—Some provisions in this document, relating to the requirements of section 202(a)(3), EUCA, differ from guidance previously furnished to the States in other issuances.

#### Section by Section Explanation

##### Section 615.2 Definitions

New section 202(a)(3)(A) of the EUCA relates to "weeks of unemployment" in which a claimant does or does not make an active search for work. A precondition for eligibility for unemployment compensation is that the individual has made a claim for benefits with respect to such week. In other words, for purposes of unemployment compensation, unemployment is not

countable as a week of unemployment unless an individual files a claim and payment of compensation for the week is *claimed*. The Employment and Training Administration's (ETA) reporting instructions for the UI/EB programs for payment and claims activities requires the States to report "weeks claimed", not weeks of unemployment. In other parts of the EUCA and this regulation, the fact that a week must be claimed is tacit and the term "week of unemployment" relates to a *week claimed* by an individual in which a claimant earned no wages or has low earnings. This contrasts with the phrase a "week of unemployment" which in common parlance is unrelated to the claimant's actions to claim benefits. For example, an individual who is not in UI claims or benefit status experiences weeks of unemployment during an illness which obviously is a period in which the individual cannot actively search for work (and for which no benefits are payable). Yet, under a literal reading of section 202(a)(3), the failure to search for work in a "week of unemployment" results in a disqualification until the individual finds work for at least 4 weeks. Under this reading, a disqualification would apply even if the failure to search for work occurred when the individual's claim was inactive because he/she had not filed a claim. Congress must not have intended that result for an individual who was not even claiming benefits at the time. Section 615.2(n)(2) prevents that result by specially defining the term solely for this one purpose, so it means a week for which the individual claims benefits.

Section 202(a)(4) also requires an individual to be employed in some weeks to terminate certain disqualifications. To prevent uncertainty about what "employed" means, § 615.2(o)(1) so defines it as to exclude self-employment, volunteer services and such neighborly exchanges as baby-sitting.

Since the Extended Benefit Program began in 1970, the term "average weekly benefit amount" has described an amount figure when regular benefits are exhausted. It still is needed for that purpose. But the EUCA now uses that same term (in connection with disqualifications) to be used before regular benefits are exhausted, when the data for making the computation may not be known. Section 202(a)(3)(B)(ii) prescribes the disqualification for certain actions while claiming sharable regular benefits as well as while claiming extended benefits. Some definition of the term which can apply

during regular benefits is needed; § 615.2(o)(2) specially defines the term to fit either regular or Extended Benefits by using the weekly benefit amount for the week in question.

The 1980 amendments introduced the term "individual's capabilities" for the first time. Section 615.2(o)(3) draws on section 202(a)(3)(D)(iii) and the Senate Finance Committee's report to define the term so it will include any job the individual has the physical and mental capacity to perform.

A "reasonably short period" is another new term in section 202(a)(3)(C). Judgments on how many weeks that may include are left up to the States in § 615.2(o)(4). Under section 202(a)(3)(D)(i), the "gross average weekly remuneration" a job will yield is to be considered to determine whether it is suitable work. Since weekly pay on many jobs depends on hours worked, piece rates, incentive pay, etc., § 615.2(o)(5) uses the experience of individuals performing work for the employer similar to the offered work to determine the gross average weekly remuneration.

The House of Representatives Report No. 96-1479, page 164, shows the conference agreement to a Senate amendment with the following language: "(b)(1) Deny extended benefits to any individual who fails to accept any work that is offered in writing or is listed with the State employment service, . . ." Through a drafting error, the word "and" was used where the Senate Finance Committee meant to use the word "or" in section 202(a)(3)(D)(ii). The error would nullify the Committee intent to reduce costs and tighten administration since it is unrealistic to expect an employer both to list a job with the State Employment Service and also offer it in writing to an applicant. Section 615.2(o)(6) makes the conditions alternative as was intended rather than conjunctive, in that very limited application.

The Senate Finance Committee Report explains elements the Committee felt should be considered to determine whether a job is suitable. These elements include minimum standards of acceptability such as basic health and safety standards, compliance with the Federal minimum wage, and other existing Federal standards. Section 615.2(o)(7) assembles those sources of guidance to the States.

Section 202(a)(3)(E) describes a proper search for work by the terms "systematic and sustained effort" and requires the claimant to provide "tangible evidence" of those efforts. To narrow the range of individual State

interpretations, §§ 615.2(o) (8) and (9) set more detailed standards.

Section 202(a)(4) of the Act requires employment subsequent to the "date" of the disqualification before it may be ended. Section 615.2(o)(10) sets the date the disqualification began as determined under the applicable State law.

Interstate benefit claimants must be denied benefits as required by section 202(c) of the EUCA if they filed interstate claims in a State which is not in an Extended Benefit Period. Various special interstate arrangements exist for handling claimants who are outside the liable State. Section 615.2(p)(1) describes those systems to which section 202(c) would or would not apply.

#### *Section 615.4 Eligibility Requirements for Extended Benefits*

The qualifying requirement for Extended Benefits in new section 202(a)(5) of the EUCA requires either 20 full-time weeks of work or one of two equivalent alternatives, at the State's option. State interpretations as to full-time work weeks are authorized.

#### *Section 615.5 Definition of Exhaustee*

Section 615.5(a)(1)(v) is corrected merely to remove an obsolete reference to the Virgin Islands.

#### *Section 615.7 Extended Benefits; Maximum Amount*

Section 204(a)(2) of the EUCA now requires that Extended Benefits be limited in special circumstances to take into account any Trade Readjustment Allowances previously paid to a claimant. How to reduce the maximum extended benefit rights is prescribed in § 615.7(d).

#### *Section 615.8 Provisions of State Law Applicable to Claimants*

Individuals who quit, are discharged for misconduct connected with their work, or fail to accept suitable work are disqualified by all State laws, but States vary as to how long the disqualification lasts and how the individual may requalify for benefits. The EUCA does not require States to follow any one pattern, but if a State does not require some employment to requalify for regular benefits (1) new section 202(a)(4) of the EUCA does not permit the disqualification to end for the purpose of qualifying for Extended Benefits and (2) it bars reimbursement of Extended Benefits or shorable regular benefits. Section 615.8(c) is added to set out that distinction.

Section 202(a)(3)(F) of the Act requires that State laws must provide for referring extended benefit claimants to any "suitable work." Section 615.8(e) is

added for several purposes related to referral to work. This section assures that extended benefit claimants are registered for work and will be considered when job orders are to be filled. It gives a further guide to the State agencies as to what type of jobs to consider for extended benefit claimants. The EUCA now provides two alternative sets of standards to determine if a job is "suitable," depending on the individual's job prospects. Section 615.8(d) provides for classification of individuals with regard to their prospects of obtaining work in their customary occupation in a reasonably short period, and sets forth the effects of the individual's job prospects classification. The EUCA newly prescribes the penalty for failing to accept work offered or apply for work when referred by the State Employment Service, and for failing to actively search for work. Section 615.8(f) provides for adjudication of failure to accept work or to apply for suitable work.

The new EUCA requirement of an "active search for work" and the penalty for failure to actively seek work is more fully set out in § 615.8(g).

#### *Section 615.9 Restrictions on Entitlement*

The new restriction on interstate claims in section 202(c) of the EUCA is set out in 615.9(c).

#### *Section 615.12 Determination of "on" and "off" Indicators*

Several changes are made in § 615.12. (1) With removal of the Federal trigger, §§ 615.12 (a) and (d) and 615.13(a) are obsolete and are removed while the remaining paragraphs are redesignated accordingly. (2) The new trigger rates are substituted in what were §§ 615.12 (b) and (c). (3) Extended benefit claims are removed from the weeks counted in the rate of insured unemployment in § 615.12(c)(2). (4) The period for correcting errors in the determinations of "on," "off," or "no change" indicators for Extended Benefit Periods is limited to no more than 3 weeks after the end of the week to which the determination applies. This finality of administrative action is necessary to avoid the impracticability of making retroactive determinations for failures to actively search for work or failure to meet other extended benefit eligibility requirements. Accordingly, § 615.12(d) provides finality for State indicator rates for insured unemployment, limits hearings regarding "on," "off," or "no change" indicators to the issue of the accuracy of the determinations of the rate of insured unemployment, and

limits the effect of findings of error in such hearings. Section 615.12(d) provides for such hearings.

**Section 615.13 Announcement of the Beginning and Ending of Extended Benefit Periods**

The regulations have required notices to individuals who may be eligible for Extended Benefits. Because many provisions of the EUCA now also apply to individuals who claim sharable regular benefits, the provisions in § 615.13(c) have been modified to reflect the information they will need.

**Section 615.14 Payments to States**

New requirements in the EUCA as to reimbursement of sharable regular and Extended Benefits are described in § 615.14(b).

The EUCA, in section 204(a), provides that any State that does not require an unpaid waiting period prior to the first payment of regular benefits in any benefit year shall not be reimbursed for the 50 percent Federal share for the first week of Extended Benefits or sharable regular paid to any individual by the State.

Section 615.14(c)(3) specifies the effective dates that States shall not be reimbursed for the 50 percent Federal share for the first week of Extended Benefits or sharable regular paid to any individual under varying State circumstances. Other provisions of the Act limiting reimbursements to the States are specified in § 615.14 (b) and (c). This section is clarified by adding a provision that a State shall not be entitled to reimbursement for any payment made with respect to which the claimant was either ineligible for or not entitled to the payment.

The EUCA, in section 204(a)(2)(D), provides that if a State's law does not provide for a benefit structure under which compensation is rounded down to the nearest lower dollar amount, then the State shall not be entitled to the 50 percent Federal share on the amount by which the sharable regular or Extended Benefits paid for any week of unemployment exceeds the lower dollar amount. This limitation on reimbursement to the States whose benefit structures do not provide for rounding down is set forth in § 615.14(c)(8). The elements of the benefit structure to which rounding down applies are specified in § 615.2(q).

Section 1023 of Pub. L. 96-499 added section 8509 to Title 5 of the United States Code. It changed the methods of charging benefits to Federal employing departments under the Unemployment Compensation for Federal Employees program. Section 8509 was amended by

section 202 of Pub. L. 97-362 to apply the same method of charging to benefits paid under the Unemployment Compensation for Ex-Servicemembers program. The new method is reflected in a change in § 615.14(e).

In addition, the combined-wage reimbursement instructions in § 615.14(f) are updated to correspond to the provisions previously adopted in part 616 so the "transferring State," not the "paying State," will be reimbursed for sharable regular and Extended Benefits based on transferred wages. Finally, the procedures for making reimbursements to the States and recovering excessive reimbursements are set out in § 615.14(a) and (d).

**Drafting Information**

This document was prepared under the direction and control of the Director of the Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213, telephone: (202) 376-6636 (this is not a toll free number).

**Classification—Executive Order 12291**

The proposed rule in this document is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

**Paperwork Reduction Act**

Information collection requirements contained in these regulations have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB Control Number 1205-0028 which applies to § 615.15.

**Regulatory Flexibility Act**

The Department believes that this proposed rule will have no "significant economic impact on a substantial number of small entities" within the meaning of 5 U.S.C. 605(b). This rule implements amendments to an individual entitlement program and has no economic impact on any small

entities. The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. Accordingly, no regulatory flexibility analysis is required.

**List of Subjects in 20 CFR Part 615**

Labor, Employment and Training Administration, Unemployment Compensation.

**Words of Issuance**

For the reasons set out in the preamble, Part 615 of Title 20 of the Code of Federal Regulations is proposed to be revised as set forth below.

Signed at Washington, DC, on October 16, 1986.

Roger D. Semerad,

*Assistant Secretary of Labor.*

**PART 615—EXTENDED BENEFITS IN THE FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM**

**Sec.**

- 615.1 Purpose.
- 615.2 Definitions.
- 615.3 Effective period of the program.
- 615.4 Eligibility requirements for extended benefits.
- 615.5 Definition of "exhaustee."
- 615.6 Extended benefits; weekly amount.
- 615.7 Extended benefits; maximum amount.
- 615.8 Provisions of State law applicable to claims.
- 615.9 Restrictions on entitlement.
- 615.10 Special provisions for employers.
- 615.11 Extended benefit periods.
- 615.12 Determination of "on" and "off" indicators.
- 615.13 Announcement of the beginning and ending of extended benefit periods.
- 615.14 Payments to States.
- 615.15 Records and reports.

Authority: Title II, Pub. L. 91-373 (84 Stat. 695, 708; 26 U.S.C. 3304 note); 26 U.S.C. 3304(a)(11); 42 U.S.C. 1102; Secretary's Order No. 4-75 (40 FR 18515).

**§ 615.1 Purpose.**

The regulations in this Part are issued to implement the "Federal-State Extended Unemployment Compensation Act of 1970" as it has been amended, which requires, as a condition of tax offset under the Federal Unemployment Tax Act (26 U.S.C. 3301 *et seq.*), that a State unemployment compensation law provide for the payment of extended unemployment compensation during periods of high unemployment to eligible individuals as prescribed in the Act. The benefits provided under State law, in accordance with the Act and this Part, are hereafter referred to as Extended Benefits, and the program is referred to as the Extended Benefit Program.

**§ 615.2 Definitions.**

For the purposes of the Act and this Part—

(a) "Act" means the "Federal-State Extended Unemployment Compensation Act of 1970" (Title II of Pub. L. 91-373; 84 Stat. 695, 708), approved August 10, 1970, as amended from time to time, including the 1980 amendments in section 416 of Pub. L. 96-364 (94 Stat. 1208, 1310), approved September 26, 1980, and in sections 1022 and 1024 of Pub. L. 96-499 (94 Stat. 2599, 2656, 2658), approved December 5, 1980, and the 1981 amendments in sections 2401 through 2404 and section 2505(b) of Pub. L. 97-35 (95 Stat. 357, 874-875, 884) approved August 13, 1981, and the 1982 amendment in section 191 of Pub. L. 97-248 (96 Stat. 324, 407) approved September 3, 1982, and the 1983 amendment in section 522 of Pub. L. 98-21 (97 Stat. 148) approved April 20, 1983.

(b) "Base period" means, with respect to an individual, the base period as determined under the applicable State law for the individual's applicable benefit year.

(c)(1) "Benefit year" means, with respect to an individual, the benefit year as defined in the applicable State law.

(2) "Applicable benefit year" means, with respect to an individual, the current benefit year if, at the time an initial claim for Extended Benefits is filed, the individual has an unexpired benefit year only in the State in which such claim is filed, or, in any other case, the individual's most recent benefit year. For this purpose, the most recent benefit year for an individual who has unexpired benefit years in more than one State when an initial claim for Extended Benefits is filed, is the benefit year with the latest ending date or, if such benefit years have the same ending date, the benefit year in which the latest continued claim for regular compensation was filed. The individual's most recent benefit year which expires in an Extended Benefit Period is the applicable benefit year if the individual, cannot establish a second benefit year or is precluded from receiving regular compensation in a second benefit year solely by reason of a State law provision which meets the requirement of section 3304(a)(7) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(a)(7)).

(d) "Compensation" means cash benefits (including dependents' allowances) payable to individuals with respect to their unemployment, and includes regular compensation, additional compensation and extended compensation as defined in this section.

(e) "Regular compensation" means compensation payable to an individual under a State law, and, when so payable, includes compensation payable pursuant to 5 U.S.C. Chapter 85, but does not include extended compensation or additional compensation.

(f) "Additional compensation" means compensation totally financed by a State and payable under a State law by reason of conditions of high unemployment or by reason of other special factors and, when so payable, includes compensation payable pursuant to 5 U.S.C. Chapter 85.

(g) "Extended compensation" means the extended unemployment compensation payable to an individual for weeks of unemployment which begin in an Extended Benefit Period, under those provisions of a State law which satisfy the requirements of the Act and this Part with respect to the payment of extended unemployment compensation, and, when so payable, includes compensation payable pursuant to 5 U.S.C. Chapter 85, but does not include regular compensation or additional compensation. Extended compensation is referred to in this Part as Extended Benefits.

(h) "Eligibility period" means, with respect to an individual, the period consisting of:

(1) The weeks in the individual's applicable benefit year which begin in an Extended Benefit Period, or with respect to a single benefit year, the weeks in the benefit year which begin in more than one Extended Benefit Period, and

(2) If the applicable benefit year ends within an Extended Benefit Period, any weeks thereafter which begin in such Extended Benefit Period,

but an individual may not have more than one eligibility period with respect to any one exhaustion of regular benefits, or carry over from one eligibility period to another any entitlement to Extended Benefits.

(i) "Sharable compensation" means:

(1) Extended Benefits paid to an individual under those provisions of a State law which are consistent with the Act and this Part, and that does not exceed the smallest of the following:

(i) 50 percent of the total amount of regular compensation payable to the individual during the applicable benefit year; or

(ii) 13 times the individual's weekly amount of Extended Benefits payable for a week of total unemployment, as determined pursuant to § 615.6(a); or

(iii) 39 times the individual's weekly benefit amount, referred to in (ii),

reduced by the regular compensation paid (or deemed paid) to the individual during the applicable benefit year; and

(2) Regular compensation paid to an individual with respect to weeks of unemployment in the individual's eligibility period, but only to the extent that the sum of such compensation, plus the regular compensation paid (or deemed paid) to the individual with respect to prior weeks of unemployment in the applicable benefit year, exceeds 26 times and does not exceed 39 times the average weekly benefit amount (including allowances for dependents) for weeks of total unemployment payable to the individual under the State law in such benefit year: *Provided*, that such regular compensation is paid under provisions of a State law which are consistent with the Act and this Part.

(j)(1) "Secretary" means the Secretary of Labor of the United States;

(2) "Department" means the United States Department of Labor, and shall include the Employment and Training Administration, the agency of the United States Department of Labor headed by the Assistant Secretary of Labor for Employment and Training to whom has been delegated the Secretary's authority under the Act in the Secretary's Order No. 4-75 (40 FR 18515) and Secretary's Order No. 14-75.

(k)(1) "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the U. S. Virgin Islands.

(2) "Applicable State" means, with respect to an individual, the State with respect to which the individual is an "exhaustee" as defined in § 615.5, and in the case of a combined wage claim for regular compensation the term means the "paying State" as defined in § 616.6(e) of this chapter.

(3) "State agency" means the State Employment Security Agency of a State which administers the State law.

(l)(1) "State law" means the unemployment compensation law of a State, approved by the Secretary under section 3304(a) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(a)).

(2) "Applicable State law" means the law of the State which is the applicable State for an individual.

(m)(1) "Week" means, for purposes of eligibility for and payment of Extended Benefits, a week as defined in the applicable State law.

(2) "Week" means, for purposes of computation of Extended Benefit "on" and "off" and "no change" indicators and insured unemployment rates and the beginning and ending of Extended Benefit Periods, a calendar week, but

does not include weeks claimed for Extended Benefits and additional compensation under State law and weeks claimed under 5 U.S.C. Chapter 85.

(n)(1) "Week of unemployment" means a week of total, part-total, or partial unemployment as defined in the applicable State law, which shall be applied in the same manner and to the same extent to the Extended Benefit Program as if the individual filing a claim for Extended Benefits were filing a claim for regular compensation, except as provided in paragraph (n)(2).

(2) "Week of unemployment" in section 202(a)(3)(A) of the Act means a week of unemployment, as defined in paragraph (n)(1) of this section, for which the individual claims Extended Benefits.

(o) For the purposes of section 202(a)(3) of the Act—

(1) "Employed," for the purposes of section 202(a)(3)(B)(ii) of the Act, and "employment," for purposes of section 202(a)(4) of the Act, means service performed in an employer-employee relationship as defined in the State law. That law also shall govern whether that service must be covered by it, must consist of consecutive weeks, and must consist of more weeks of work than are required under section 202(a)(3)(B) of the Act.

(2) "Average weekly benefit amount," for the purposes of section 202(a)(3)(D), means the weekly benefit amount (including dependants' allowances payable for a week of total unemployment and before any reduction because of earnings, pensions or other requirements) applicable to the week in which the individual failed to take an action which results in a disqualification as required by section 202(a)(3)(B) of the Act.

(3) "Individual's capabilities," for the purposes of section 202(a)(3)(C), means work which the individual has the physical and mental capacity to perform and which meets the minimum requirements of section 202(a)(3)(D).

(4) "Reasonably short period," for the purposes of section 202(a)(3)(C), means the number of weeks specified by State law.

(5) "Gross average weekly remuneration," for the purposes of section 202(a)(3)(D)(i), means the remuneration offered for a week of work before any deductions for taxes or other purposes, and in case the offered pay may vary from week to week it shall be determined on the basis of recent experience of workers performing work similar to the offered work for the employer who offered the work.

(6) "And," as used in section 202(a)(3)(D)(ii), shall be interpreted to mean "or".

(7) "Provisions of the applicable State law," as used in section 202(a)(3)(D)(iii), include statutory provisions and decisions based on statutory provisions, such as not requiring an individual to take a job which requires traveling an unreasonable distance to work, or which involves an unreasonable risk to the individual's health, safety or morals. They also include labor standards and training provisions required under sections 3304(a)(5) and 3304(a)(8) of the Internal Revenue Code of 1954 and section 236(a)(2) of the Trade Act of 1974.

(8) A "systematic and sustained effort," for the purposes of section 202(a)(3)(E), means all of the following:

(i) A high level of job search activity throughout the given week, compatible with the number of employers and employment opportunities in the labor market reasonably applicable to the individual;

(ii) A plan of search for work involving independent efforts on the part of each individual which result in contacts with persons who have the authority to hire in addition to any search offered by organized public and private agencies such as the State employment service and union or private placement offices or hiring halls;

(iii) Actions by the individual comparable to those actions by which jobs are being found by people in the community and labor market, but not restricted to a single manner of search for work such as registering with and reporting to the State employment service and union or private placement offices or hiring halls, except the individual, while classified by the State agency as provided in § 615.8(d) as having "good" job prospects, shall search for work that is suitable work under State law provisions which apply to claimants for regular compensation (which is not sharable) in the same manner that such work is found by people in the community;

(iv) A search not limited to classes of work or rates of pay to which the individual is accustomed or which represent the individual's higher skills, and which includes any work within the individual's capabilities, except the individual, while classified by the State agency as provided in § 615.8(d) as having "good" job prospects, shall search for work that is suitable work under State law provisions which apply to claimants for regular compensation (which is not sharable);

(v) A search by every claimant, without exception for individuals or

classes of individuals other than those in approved training, as required under section 3304(a)(8) of the Internal Revenue Code of 1954 and section 236(a)(2) of the Trade Act of 1974; and

(vi) A search suspended only when severe weather conditions or other calamity forces suspension of such activities by most members of the community.

(9) "Tangible evidence" of an active search for work, for the purposes of section 202(a)(3)(E), means a written record which can be verified. It must include the actions, taken, types of work sought, dates and places where work was sought, the name of the employer or person who was contacted and the outcome of the contact.

(10) "Date" of a disqualification, as used in section 202(a)(4), means the date the disqualification begins, as determined under the applicable State law.

(11) "Jury duty," for purposes of section 202(a)(3)(A)(ii), means the performance of service as a juror, during all periods of time an individual is engaged in such service, in any court of a State or the United States pursuant to the law of the State or the United States and the rules of the court in which the individual is engaged in the performance of such service.

(12) "Hospitalized for treatment of an emergency or life-threatening condition," as used in section 202(a)(3)(A)(ii), means an individual who was admitted to a hospital as an inpatient for medical treatment. Treatment for an "emergency or life threatening condition" shall be considered for these purposes if determined to be such by the hospital officials or attending physician that provide the treatment for a medical condition existing upon or arising after hospitalization. For purposes of this definition, the term "medical treatment" refers to the application of any remedies which have the objective of effecting a cure of the emergency or life-threatening condition. Once an "emergency condition" or a "life-threatening condition" has been determined to exist by the hospital officials or attending physician, the status of the individual as so determined shall remain unchanged until release from the hospital.

(p)(1) "Claim filed in any State under the interstate benefit payment plan," as used in section 202(c), means any interstate claim for a week of unemployment filed pursuant to the interstate benefit payment plan, but does not include:

(i) A claim filed in Canada, or



(ii) A visiting claim filed by an individual who has received permission from his/her regular reporting office to report temporarily to a local office in another State and who has been furnished intrastate claim forms on which to file claims, or

(iii) A transient claim filed by an individual who is moving from place to place searching for work.

(2) "The first 2 weeks," as used in section 202(c), means the first two weeks for which the individual files claims for Extended Benefits under the interstate benefit payment plan in an agent State in which an Extended Benefit Period is not in effect during such weeks.

(q) "Benefit structure" as used in section 204(a)(2)(D), for the requirement to round down to the "nearest lower full dollar amount" for Federal reimbursement of sharable regular and sharable extended compensation means all of the following:

(1) Amounts of regular weekly benefit payments;

(2) Amounts of extended weekly benefit payments;

(3) The State maximum or minimum weekly benefit;

(4) Partial and part-total benefit payments;

(5) Amounts payable after deduction for pensions; and

(6) Amounts payable after any other deduction required by State law.

#### § 615.3 Effective period of the program.

An Extended Benefit Program conforming with the Act and this Part shall be a requirement for a State law effective on and after January 1, 1972, pursuant to section 3304(a)(11) of the Internal Revenue Code of 1954, (26 U.S.C. 3304(a)(11)). Continuation of the program by a State in conformity and substantial compliance with the Act and this Part, throughout any 12-month period ending on October 31 of a year subsequent to 1972, shall be a condition of the certification of the State with respect to such 12-month period under section 3304(c) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(c)). Conformity with the Act and this Part in the payment of regular compensation and Extended Benefits to any individual shall be a continuing requirement, applicable to every week as a condition of a State's entitlement to reimbursement for any sharable compensation as provided in the Act and this Part.

#### § 615.4 Eligibility requirements for extended benefits.

(a) *General.* An individual is entitled to Extended Benefits for a week of

unemployment which begins in the individual's eligibility period if, with respect to such week, the individual is an exhaustee as defined in § 615.5, files a timely claim for Extended Benefits, and satisfies the pertinent requirements of the applicable State law which are consistent with the Act and this Part.

(b) *Qualifying for Extended Benefits.* The State law shall specify whether an individual qualifies for Extended Benefits by earnings and employment in the base period for the individual's applicable benefit year as required by section 202(a)(5) of the Act (and if it does not also apply this requirement to the payment of sharable regular benefits, the State will not be reimbursed under § 615.14), as follows:

(1) One and one-half times the high quarter wages; or

(2) Forty times the most recent weekly benefit amount, and if this alternative is adopted, it shall use the weekly benefit amount (including dependents' allowances) payable for a week of total unemployment (before any reduction because of earnings, pensions or other requirements) which applied to the most recent week of regular benefits; or

(3) Twenty weeks of full-time insured employment, and if this alternative is adopted, the term "full-time" shall have the meaning provided by the State law.

#### § 615.5 Definition of "Exhaustee."

(a)(1) "Exhaustee" means an individual who, with respect to any week of unemployment in the individual's eligibility period:

(i) Has received, prior to such week, all of the regular compensation that was payable under the applicable State law or any other State law (including regular compensation payable to Federal civilian employees and Ex-Servicemembers under 5 U.S.C. Chapter 85) for the applicable benefit year that includes such week; or

(ii) Has received, prior to such week, all of the regular compensation that was available under the applicable State law or any other State law (including regular compensation available to Federal civilian employees and Ex-Servicemembers under 5 U.S.C. Chapter 85) in the benefit year that includes such week, after the cancellation of some or all of the individual's wage credits or the total or partial reduction of the individual's right to regular compensation; or

(iii) The applicable benefit year having expired prior to such week and the individual is precluded from establishing a second (new) benefit year, or the individual established a second benefit year but is suspended indefinitely from receiving regular

compensation, solely by reason of a State law provision which meets the requirement of section 3304(a)(7) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(a)(7)); *Provided*, that, an individual shall not be entitled to Extended Benefits based on regular compensation in a second benefit year during which the individual is precluded from receiving regular compensation solely by reason of a State law provision which meets the requirement of section 3304(a)(7) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(a)(7)); or

(iv) The applicable benefit year having expired prior to such week, the individual has insufficient wages or employment, or both, on the basis of which a new benefit year could be established in any State that would include such week; and

(v) Has no right to unemployment compensation for such week under the Railroad Unemployment Insurance Act or such other Federal laws as are specified pursuant to this paragraph, and

(vi) Has not received and is not seeking for such week unemployment compensation under the unemployment compensation law of Canada, unless the Canadian agency finally determines that the individual is not entitled to unemployment compensation under the Canadian law for such week.

(2) An individual who becomes an exhaustee as defined above shall cease to be an exhaustee commencing with the first week that the individual becomes eligible for regular compensation under any State law or 5 U.S.C. Chapter 85, or has any right to unemployment compensation as provided in paragraph (a)(1)(v) of this section, or has received or is seeking unemployment compensation as provided in paragraph (a)(1)(vi) of this section. The individual's Extended Benefit Account shall be terminated upon the occurrence of any such week, and the individual shall have no further right to any balance in that Extended Benefit Account.

(b) *Special Rules.* For the purposes of paragraphs (a)(1)(i) and (a)(1)(ii) of this section, an individual shall be deemed to have received in the applicable benefit year all of the regular compensation payable according to the monetary determination, or available to the individual, as the case may be, even though—

(1) As a result of a pending appeal with respect to wages or employment or both that were not included in the original monetary determination with respect to such benefit year, the individual may subsequently be

determined to be entitled to more or less regular compensation; or

(2) By reason of a provision in the State law that establishes the weeks of the year in which regular compensation may be paid to the individual on the basis of wages in seasonal employment—

(i) The individual may be entitled to regular compensation with respect to future weeks of unemployment in the next season or off season, as the case may be, but such compensation is not payable with respect to the week of unemployment for which Extended Benefits are claimed; and

(ii) The individual is otherwise an exhaustee within the meaning of this section with respect to rights to regular compensation during the season or off season in which that week of unemployment occurs; or

(3) Having established a benefit year, no regular compensation is payable during such year because wage credits were cancelled or the right to regular compensation was totally reduced as the result of the application of a disqualification.

(c) *Adjustment of week.* If it is subsequently determined as the result of a redetermination or appeal that an individual is an exhaustee as of a different week than was previously determined, the individual's rights to Extended Benefits shall be adjusted so as to accord with such redetermination or decision.

#### **§ 615.6 Extended benefits; weekly amount.**

(a) *Total unemployment.* (1) The weekly amount of Extended Benefits payable to an individual for a week of total unemployment in the individual's eligibility period shall be the amount of regular compensation payable to the individual for a week of total unemployment during the applicable benefit year. If the individual had more than one weekly amount of regular compensation for total unemployment during such benefit year, the weekly amount of extended compensation for total unemployment shall be one of the following which applies as specified in the applicable State law:

(i) The average of such weekly amounts of regular compensation; or

(ii) The last weekly benefit amount of regular compensation in such benefit year; or

(iii) An amount that is reasonably representative of the weekly amounts of regular compensation payable during such benefit year.

(2) If the method in paragraph (a)(1)(ii) of this section is adopted by a State, the State law shall specify how

such amount is to be computed. If the method in paragraph (a)(1)(i) of this section is adopted by a State, and the amount computed is not an even dollar amount, the amount shall be raised or lowered to an even dollar amount as provided by the applicable State law for regular compensation.

(b) *Partial and part-total unemployment.* The weekly amount of Extended Benefits payable for a week of partial or part-total unemployment shall be determined under the provisions of the applicable State law which apply to regular compensation, computed on the basis of the weekly amount of Extended Benefits payable for a week of total unemployment as determined pursuant to paragraph (a) of this section.

#### **615.7 Extended benefits; maximum amount.**

(a) *Individual account.* An Extended Benefit Account shall be established for each individual determined to be eligible for Extended Benefits, in the sum of the maximum amount potentially payable to the individual as computed in accordance with paragraph (b) of this section.

(b) *Computation of amount in individual account.*

(1) The amount established in the Extended Benefit Account of an individual, as the maximum amount potentially payable to the individual during the individual's eligibility period, shall be equal to the lesser of—

(i) 50 percent of the total amount of regular compensation (including dependents' allowances) payable to the individual during the individual's applicable benefit year; or

(ii) 13 times the individual's weekly amount of Extended Benefits payable for a week of total unemployment, as determined pursuant to § 615.6(a); or

(iii) 39 times the individual's weekly benefit amount referred to in (b)(1)(iii) of this section, reduced by the regular compensation paid (or deemed paid) to the individual during the individual's applicable benefit year.

(2) If the State law so provides, the amount in the individual's Extended Benefit Account shall be reduced by the aggregate amount of additional compensation paid (or deemed paid) to the individual under such law for prior weeks of unemployment in such benefit year which did not begin in an Extended Benefit Period.

(c) *Changes in accounts.* (1) If an individual is entitled to more or less Extended Benefits as a result of a redetermination or an appeal which awarded more or less regular compensation or Extended Benefits, an appropriate change shall be made in the

individual's Extended Benefit Account pursuant to an amended determination of the individual's entitlement to Extended Benefits.

(2) If an individual who has received Extended Benefits for a week of unemployment is determined to be entitled to regular compensation with respect to such week as the result of a redetermination or an appeal, the Extended Benefits paid shall be treated as if they were regular compensation up to the greater amount to which the individual has been determined to be entitled, and the State agency shall make appropriate adjustments between the regular and extended accounts. If the individual is entitled to more Extended Benefits as a result of being entitled to more regular compensation, an amended determination shall be made of the individual's entitlement to Extended Benefits. If the greater amount of regular compensation results in an increased duration of regular compensation, the individual's status as an exhaustee shall be redetermined as of the new date of exhaustion of regular compensation.

(3) If an individual who has received Extended Benefits for a week of unemployment is determined to be entitled to more or less regular compensation as the result of a redetermination or an appeal, and as a consequence is entitled to less Extended Benefits, any Extended Benefits paid in excess of the amount to which the individual is determined to be entitled after the redetermination or decision on appeal shall be considered an overpayment which the individual shall have to repay on the same basis and in the same manner that excess payments of regular compensation are required to be repaid under the applicable State law.

(d) *Reduction Because of Trade Readjustment Allowances.* Section 233(d) of the Trade Act of 1974, requiring a reduction of Extended Benefits because of the receipt of trade readjustment allowances, shall be applied as follows:

(1) It shall apply only to an individual who has not exhausted his/her Extended Benefits at the end of the benefit year.

(2) The amount to be deducted is the product of the weekly benefit amount for Extended Benefits multiplied by the number of weeks for which trade readjustment allowances were paid (regardless of the amount paid for any such week) up to the close of the last week that begins in the benefit year.

(3) The amount to be deducted shall be deducted from the balance of



Extended Benefits not used as of the close of the last week which begins in the benefit year.

**§ 615.8 Provisions of State Law Applicable to Claims.**

(a) *Particular provisions applicable.* Except where the result would be inconsistent with the provisions of the Act or this Part, the terms and conditions of the applicable State law which apply to claims for, and the payment of regular compensation shall apply to claims for, and the payment of, extended benefits. The provisions of the applicable State law which shall apply to claims for, and the payment of, Extended Benefits include, but are not limited to:

- (1) Claim filing and reporting;
- (2) Information to individuals, as appropriate;
- (3) Notices to individuals and employers, as appropriate;
- (4) Determinations, redeterminations, and appeal and review;
- (5) Ability to work and availability for work, except as provided otherwise in this section;
- (6) Disqualifications, including disqualifying income provisions, except as provided by paragraph (c) of this section;
- (7) Overpayments, and the recovery thereof;
- (8) Administrative and criminal penalties;
- (9) The Interstate Benefit Payment Plan;
- (10) The Interstate Arrangements for Combining Employment and Wages, in accordance with Part 616 of this chapter.

(b) *Provisions not to be applicable.* The State law and regulations shall specify those of its terms and conditions which shall not be applicable to claims for, or payment of, Extended Benefits. Among such terms and conditions shall be at least those relating to—

- (1) Any waiting period;
- (2) Monetary or other qualifying requirements, except as provided in § 615.4(b); and
- (3) Computation of weekly and total regular compensation.

(c) *Terminating disqualifications.* A disqualification in a State law, as to any individual who voluntarily left work, was suspended or discharged for misconduct, gross misconduct or the commission or conviction of a crime, or refused an offer of or a referral to work, as provided in sections 202(a)(4) and (6) of the Act—

- (1) As applied to regular benefits which are not sharable, is not subject to any limitation in sections 202(a) (4) and (6).

(2) As applied to eligibility for extended benefits, shall require that the individual be employed again subsequent to the date of the disqualification before it may be terminated, even though it may have been terminated on other grounds for regular benefits which are not sharable. If the State law does not also apply this provision to the payment of what would otherwise be sharable regular benefits, the Federal share of such benefits will not be reimbursable under § 615.14.

(3) Will not apply in regard to eligibility for Extended Benefits in a subsequent eligibility period.

(d) *Determinations of job prospects.*

(1) As to each individual who files an initial claim for Extended Benefits, the State agency shall classify the individual's prospects for obtaining work in his/her customary occupation within a reasonably short period, as "good" or "not good," and shall notify the individual in writing of such classification and of the requirements applicable to the individual under the provisions of the applicable State law corresponding to section 202(a)(3) of the Act and this Part.

(2) If an individual is thus classified as having good prospects, but those prospects are not realized by the close of the period the State law specifies as a reasonably short period, the individual's prospects will be automatically reclassified as "not good" or classified as "good" or "not good" depending on the individual's job prospects as of that date.

(3) Whenever an issue arises concerning an individual's failure to apply for or accept an offer of work (section 202(a)(3)(A)(i) of the Act and paragraphs (e) and (f) of this section), or to actively engage in seeking work (section 202(a)(3)(A)(ii) and (E) of the Act and paragraph (g) of this section), an appealable determination shall be made of the individual's job prospects at the time the issue arose and shall be included in the written determination on the issue.

(4) If an individual's job prospects are determined in accordance with the preceding paragraph (d)(3) of this section, to be "good," the suitability of work will be determined under the standard State law provisions applicable to claimants for regular compensation which is not sharable; and if determined to be "not good," the suitability of work will be determined under the definition of suitable work in the State law provisions corresponding to section 202(a)(3) of the Act and this Part. Any determination or classification of an individual's job prospects is mutually exclusive, and only one

suitable work definition shall be applied to a claimant as to any failure to accept or apply for work or seek work with respect to any week.

(e) *Requirement of referral to work.*

(1) Each State agency shall refer Extended Benefit claimants to "suitable" work, as required by section 202(a)(3)(F) of the Act and this Part, except that no individual shall be referred to any work with respect to which the individual is protected by labor standards and training provisions required by section 3304(a)(5) or section 3304(a)(8) of the Internal Revenue Code of 1954, or section 236(a)(2) of the Trade Act of 1974, or the provisions of section 202(a)(3)(D) of the Act and this Part.

(2) To make such referrals, the State agency shall assure that each Extended Benefit claimant is registered for work and continues to be considered for referral to job openings as long as he/she continues to claim benefits.

(3) In referring claimants to available job openings, the State agency shall apply to Extended Benefit claimants the same priorities, policies, and judgments as it does to other applicants, except that it shall not restrict referrals only to work at higher skill levels, prior rates of pay, customary work, or preferences as to work or pay for individuals whose prospects of obtaining work in their customary occupations have been classified as or determined to be "not good."

(4) For referral purposes, any work which does not exceed the individual's capabilities shall be considered suitable work for an Extended Benefit claimant, except as modified by this paragraph (e).

(5) For Extended Benefit claimants whose prospects of obtaining work in their customary occupations have been classified as or determined to be "not good" work shall not be suitable, and referral to a job shall not be made, if—

(i) The gross average weekly remuneration for the job does not exceed the sum of the individual's weekly benefit amount plus any supplemental unemployment benefits (SUB) (as defined in section 501(c)(17)(D) of the Internal Revenue Code of 1954), payable to the individual for all weeks, or

(ii) The job is not listed with the State employment service, or

(iii) The job pays less than the higher of the minimum wage set in section 6(a)(1) of the Fair Labor Standards Act of 1938, without regard to any exemption, or any applicable State or local minimum wage, or

(iv) Failure to accept or apply for the job would not result in a denial of

compensation under the provisions of the applicable State law as defined in § 615.2(o)(7).

(6) In addition, if the State agency classifies or determines that an individual's prospects for obtaining work in his/her customary occupation within a reasonably short period are "good," referral shall not be made to a job which would not be suitable under the State law provisions applicable to claimants for regular benefits, and the individual shall be ineligible for extended compensation for the week in which the individual fails to apply for or accept an offer of suitable work and thereafter until the individual is employed in at least four weeks with wages from such employment totalling not less than four times the individual's weekly benefit amount, as provided by State law.

(7) If the State law does not also apply this paragraph (e) to individuals who claim what would otherwise be sharable regular compensation, the State will not be entitled to reimbursement under the Act and § 615.14 in regard to such regular compensation.

(f) *Refusal of work.* The State law shall provide, as required by section 202(a)(3)(A)(i) of the Act, that if an individual who claims Extended Benefits fails to accept an offer of work or fails to apply for work to which he/she was referred by the State agency—

(1) If, when the failure occurred,

(i) The individual's prospects for obtaining work in his/her customary occupation within a reasonably short period are classified or determined to be "good," the agency shall determine whether the work is suitable under the standard State law provisions which apply to claimants for regular compensation which is not sharable, and the individual shall be ineligible for extended compensation for the week in which the individual fails to apply for or accept an offer of suitable work and thereafter until the individual is employed in at least four weeks with wages from such employment totalling not less than four times the individual's weekly benefit amount, as provided by State law.

(ii) The individual's prospects for obtaining work in his/her customary occupation are classified or determined to be "not good," the State agency shall determine whether the work is suitable under the definition corresponding to section 202(a)(3) (C) and (D) of the Act and this Part and the individual shall be ineligible for extended compensation for the week in which the failure occurs and thereafter until the individual is employed in at least four weeks with wages from such employment totalling

not less than four times the individual's weekly benefit amount, as provided by State law.

(2) For an individual whose prospects of obtaining work in his/her customary occupation within the period specified by State law are classified or determined to be "not good," the term "suitable work" shall mean any work which is within the individual's capabilities, except—

(i) If the gross average weekly remuneration for the work does not exceed the sum of the individual's weekly benefit amount plus any supplemental unemployment benefits (SUB) (as defined in section 501(c)(17)(D) of the Internal Revenue Code of 1954) payable to the individual for all weeks;

(ii) If the work pays less than the higher of the minimum wage set in section 6(a)(1) of the Fair Labor Standards Act of 1938, without regard to any exemption, or any applicable State or local minimum wage;

(iii) If the work was not offered in writing or was not listed with the State employment service;

(iv) If failure to accept or apply for the work would not result in a denial of compensation under the provisions of the applicable State law, as defined in § 615.2(o)(7).

(3) If the State law does not also apply this paragraph (f) to the payment of what would otherwise be sharable regular compensation, the State will not be entitled to reimbursement under the Act and § 615.14 in regard to such regular compensation.

(g) *Actively seeking work.* (1) An individual who claims Extended Benefits (or sharable regular compensation) shall be required by the State law, as provided in sections 202(a)(3) (A)(ii) and (E) of the Act, to make a systematic and sustained search for work which is "suitable work" as provided in paragraph (f) of this section, throughout each week beginning with the week in which the individual files an initial claim for such benefits, and to furnish tangible evidence of such efforts.

(2) If the individual fails to thus search for work, or to furnish tangible evidence of such efforts, he/she shall be ineligible for extended compensation for the week in which the failure occurred and thereafter until the individual is employed in at least four weeks with wages from such employment totalling not less than four times the individual's weekly benefit amount, as provided by State law.

(3) State law may provide that eligibility for Extended Benefits be determined under the applicable provisions of State law for regular

compensation without regard to the disqualification provisions otherwise applicable in paragraph (g)(2) of this section, for any individual who fails to engage in a systematic and sustained search for work throughout any week because such individual is:

(i) Serving on jury duty, or

(ii) Hospitalized for treatment of an emergency or life-threatening condition. The conditions in (i) and (ii) must be applied to individuals filing claims for Extended Benefits in the same manner as applied to individuals filing claims for regular compensation.

(4) If the State law does not also apply this paragraph (g) to the payment of what would otherwise be sharable regular compensation, the State will not be entitled to reimbursement under the Act and § 615.14 in regard to such regular compensation.

(h) *Information to Claimants.* The State agency shall assure that each Extended Benefit claimant (and claimant for sharable regular compensation) is informed in writing—

(1) Of the State agency's classification of his/her prospects for finding work in his/her customary occupation within the time set out in paragraph (d) of this section as "good" or "not good,"

(2) What kind of jobs he/she may be referred to, depending on the classification of his/her job prospects,

(3) What kind of jobs he/she must be actively engaged in seeking each week depending on the classification of his/her job prospects, and what tangible evidence of such search must be furnished to the State agency with each claim for benefits, and

(4) The resulting disqualification if he/she fails to apply for work to which referred, or fails to accept work offered, or fails to actively engage in seeking work or to furnish tangible evidence of such search for each week for which Extended Benefits or sharable regular benefits are claimed, beginning with the week following the week in which such information is furnished in writing to the individual.

#### § 615.9 Restrictions on entitlement.

(a) *Disqualifications.* If the week of unemployment for which an individual claims Extended Benefits is a week to which a disqualification for regular compensation applies, including a reduction because of the receipt of disqualifying income, or would apply but for the fact that the individual has exhausted all rights to such compensation, the individual shall be disqualified in the same degree from receipt of Extended Benefits for that week.

(b) *Additional compensation.* No individual shall be paid additional compensation and Extended Benefits with respect to the same week. If both are payable by a State with respect to the same week, the State law may provide for the payment of Extended Benefits instead of additional compensation with respect to the week. If Extended Benefits are payable to an individual by one State and additional compensation is payable to the individual for the same week by another State, the individual may elect which of the two types of compensation to claim.

(c) *Interstate claims.* An individual who files claims for Extended Benefits under the Interstate Benefit Payment Plan, in a State which is not in an Extended Benefit Period for the week(s) for which Extended Benefits are claimed, shall not be paid more than the first two weeks for which he/she files such claims.

(d) *Other restrictions.* The restrictions on entitlement specified in this section are in addition to other restrictions in the Act and this Part on eligibility for and entitlement to Extended Benefits.

#### § 615.10 Special provisions for employers.

(a) *Charging contributing employers.*

(1) Section 3303(a)(1) of the Internal Revenue Code of 1954 (26 U.S.C. 3303(a)(1)) does not require that Extended Benefits paid to an individual be charged to the experience rating accounts of employers.

(2) A State law may, however, consistently with section 3303(a)(1), require the charging of Extended Benefits paid to an individual; and if it does, it may provide for charging all or any portion of such compensation paid. Sharable regular compensation must be charged as all other regular compensation is charged under the State law.

(b) *Payments by reimbursing employers.* If an employer is reimbursing the State unemployment fund in lieu of paying contributions pursuant to the requirements of State law conforming with sections 3304(a)(6)(B) and 3309(a)(2) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(a)(6)(B) and 3309(a)(2)), the State law shall require the employer to reimburse the State unemployment fund for not less than 50 percent of any sharable compensation that is attributable under the State law to service with such employer; and as to any other compensation which is not sharable compensation under § 615.14, the State law shall require the employer to reimburse the State unemployment fund for 100 percent, instead of 50 percent, of any compensation paid.

#### § 615.11 Extended benefit periods.

(a) *Beginning date.* Except as provided in paragraph (d) of this section, an Extended Benefit Period shall begin in a State on the first day of the third calendar week after a week for which there is a State "on" indicator in that State;

(b) *Ending date.* Except as provided in paragraph (c) of this section, an Extended Benefit Period in a State shall end on the last day of the third week after the first week for which there is a State "off" indicator in that State.

(c) *Duration.* An Extended Benefit Period which becomes effective in any State shall continue in effect for not less than 13 consecutive weeks.

(d) *Limitation.* No Extended Benefit Period may begin in any State by reason of a State "on" indicator before the 14th week after the ending of a prior Extended Benefit Period with respect to such State.

#### § 615.12 Determination of "on" and "off" indicators.

(a) *Standard State indicators.* (1) There is a State "on" indicator in a State for a week if the head of the State agency determines, in accordance with paragraph (c) of this section, that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment (not seasonally adjusted) under the State law—

(i) Equalled or exceeded 120 percent of the average of such rates for the corresponding 13-week periods ending in each of the preceding two calendar years, and

(ii) Equalled or exceeded 5.0 percent.

(2) There is a State "off" indicator in a State for a week if the head of the State agency determines, in accordance with paragraph (c) of this section, that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment (not seasonally adjusted) under the State law—

(i) Was less than 120 percent of the average of such rates for the corresponding 13-week periods ending in each of the preceding two calendar years, or

(ii) Was less than 5.0 percent.

(3) The revised State indicators in paragraph (a) shall apply to weeks beginning after September 25, 1982.

(b) *Optional State indicators.* (1)(i) A State may, in addition to the State indicators in paragraph (a) of this section, provide by its law that there shall be a State "on" indicator in the State for a week if the head of the State agency determines, in accordance with paragraph (c) of this section, that, for the

period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment (not seasonally adjusted) under the State law equalled or exceeded 6.0 percent even though it did not meet the 120 percent factor required under paragraph (a) of this section.

(ii) A State which adopts the optional State indicator must also provide that, when it is in an Extended Benefit Period, there will not be an "off" indicator until (A) the State rate of insured unemployment is less than 6.0 percent, and (B) either its rate of insured unemployment is less than 5.0 percent or is less than 120 percent of the average of such rates for the corresponding 13-week periods ending in each of the preceding two calendar years.

(2) The revised State indicators in this paragraph (b) shall apply to weeks beginning after September 25, 1982.

(c) *Computation of rate of insured unemployment.*—(1) *Equation.* Each week the State agency head shall calculate the rate of insured unemployment under the State law (not seasonally adjusted) for purposes of determining the State "on" and "off" and "no change" indicators. In making such calculations the State agency head shall use a fraction, the numerator of which shall be the weekly average number of weeks claimed in claims filed (not seasonally adjusted) in the State in the 13-week period ending with the week for which the determination is made, and the denominator of which shall be the average monthly employment covered by the State law for the first four of the last six calendar quarters ending before the close of the 13-week period. The quotient obtained is to be computed to four decimal places, and is not otherwise rounded, and is to be expressed as a percentage by multiplying the resultant decimal fraction by 100.

(2) *Counting weeks claimed.* To determine the average number of weeks claimed in claims filed to serve as the numerator under paragraph (c)(1) of this section, the State agency shall include claims for all weeks for regular compensation, including claims taken as agent State under the Interstate Benefit Payment Plan. It shall exclude claims—

(i) For Extended Benefits under any State law,

(ii) For additional compensation under any State law, and

(iii) Under any Federal law except joint claims which combine regular compensation and compensation payable under 5 U.S.C. Chapter 85.

(3) *Method of computing the State 120 percent factor.* The rate of insured

unemployment for a current 13-week period shall be divided by the average of the rates of insured unemployment for the corresponding 13-week periods in each of the two preceding calendar years to determine whether the rate is equal to 120 percent of the average rate for the two years. The quotient obtained shall be computed to four decimal places and not otherwise rounded, and shall be expressed as a percentage by multiplying the resultant decimal fraction by 100. The average of the rates for the corresponding 13-week periods in each of the two preceding calendar years shall be one-half the sum of such rates computed to four decimal places and not otherwise rounded. To determine which are the corresponding weeks in the preceding years—

(i) The weeks shall be numbered starting with week number 1 as the first week ending in each calendar year.

(ii) The 13-week period ending with any numbered week in the current year shall correspond to the period ending with that same numbered week in each preceding year.

(iii) When that period in the current year ends with week number 53, the corresponding period in preceding years shall end with week number 52 if there is no week number 53.

(d) *Amendment of State indicator rates.* (1) Because figures used for determinations under this section may contain errors and because it is not practical to apply any correction in a State "on" or "off" or "no change" indicator retroactively either to recover amounts paid or to adjudicate claims for past periods in which claimants failed to make the required active search for work, any "on" or "off" or "no change" indicator determined under this section shall not be corrected more than three weeks after the close of the week to which it applies. If any figure used in the computation of a rate of insured unemployment is later found to be wrong, the correct figure shall be used to redetermine the rate of insured unemployment and of the 120 percent factor for that week and all subsequent weeks, but no determination of previous "on" or "off" or "no change" indicator shall be affected unless the redetermination is made within the time the indicator may be corrected under the first sentence of this paragraph. Any change hereunder shall be subject to the concurrence of the Department.

(2) Any determination of the rate of insured unemployment and its effect on an "on" or "off" or "no change" indicator made under this section may be challenged by appeal or by other proceedings, as shall be provided by State law, but the implementation of any

change in the indicator from one week to another shall not be stayed or postponed. In a hearing on any such challenge the issue may be limited to the accuracy of the determination of the rate of insured unemployment. If an error in that rate affecting the "on" or "off" or "no change" indicator is discovered in such a hearing or other proceeding, its retroactive effect shall be limited as provided in paragraph (d)(1) of this section.

(e) *Notice to Secretary.* Within 10 calendar days after the end of any week with respect to which the head of a State agency has determined that there is an "on," or "off," or "no change" indicator in the State, the head of the State agency shall notify the Department of the determination. The notice shall state clearly the State agency head's determination of the specific week for which there is a State "on" or "off" or "no change" indicator. The notice shall include also the State agency head's findings supporting the determination, with a certification that the findings are made in accordance with the requirements of this section and § 615.15. Determinations and findings made as provided in this section shall be accepted by the Department, but the head of the State agency shall comply with such provisions as the Department may find necessary to assure the correctness and verification of notices given under this paragraph. A notice shall not become final, for purposes of paragraph (d) of this section until such notice is accepted by the Secretary.

#### § 615.13 Announcement of the beginning and ending of extended benefit periods.

(a) *State indicators.* Upon receipt of the notice required by § 615.12(e) which is acceptable to the Department, the Department shall publish in the *Federal Register* a notice of the State agency head's determination that there is an "on" or an "off" indicator in the State, as the case may be, the name of the State and the beginning or ending of the Extended Benefit Period, whichever is appropriate. The Department shall also notify appropriate news media, the heads of all other State agencies, and the Regional Administration of the Employment and Training Administration of the State agency head's determination of such State "on" or "off" indicator and of its effect.

(b) *Publicity by State.* Whenever a State agency head determines that there is an "on" indicator in the State by reason of which an extended benefit Period will begin in the State, or an "off" indicator by reason of which an Extended Benefit Period in the State will end, the head of the State agency shall

promptly announce the determination through appropriate news media in the State and notify the Department in accordance with § 615.12(e). Such announcement shall include the beginning or ending date of the Extended Benefit Period, whichever is appropriate. In the case of an Extended Benefit Period that is about to begin, the announcement shall describe clearly the unemployed individuals who may be eligible for Extended Benefits during the period, and in the case of an Extended Benefit Period that is about to end, the announcement shall also describe clearly the individuals whose entitlement to Extended Benefits will be terminated.

#### (c) *Notices to individuals.* (1)

Whenever there has been a determination that an Extended Benefit Period will begin in a State, the State agency shall provide prompt written notice of potential entitlement to Extended Benefits to each individual who has established a benefit year in the State that will not end prior to the beginning of the Extended Benefit Period, and who exhausted all rights under the State law to regular compensation before the beginning of the Extended Benefit Period.

(2) The State agency shall provide such notice promptly to each individual who begins to claim sharable regular benefits or who exhausts all rights under the State law to regular compensation during an Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year.

(3) The notices required by paragraphs (C) (1) and (2) of this section shall describe those actions required of claimants for sharable regular compensation and Extended Benefits and those disqualifications which apply to such benefits which are different from those applicable to other claimants for regular compensation which is not sharable.

(4) Whenever there has been a determination that an Extended Benefit Period will end in a State, the State agency shall provide prompt written notice to each individual who is currently filing claims for Extended Benefits of the forthcoming end of the Extended Benefit Period and its effect on the individual's right to Extended Benefits.

#### § 615.14 Payments to States.

(a) *Sharable compensation.* (1) Except as provided in paragraphs (b) and (c) of this section—

(i) The Department shall promptly upon receipt of a State's report of its

expenditures for a calendar month reimburse the State in the amount the State is entitled to receive under the Act and this part.

(ii) The Department may instead advance to a State for any period not greater than one day the amount the Department estimates the State will be entitled to be paid under the Act and this part for that period.

(iii) Any payment to a State under this section shall be based upon the Department's determination of the amount the State is entitled to be paid under the Act and this part, and such amount shall be reduced or increased, as the case may be, by any amount by which the Department finds that a previous payment was greater or less than the amount that should have been paid to the State.

(2) Any payment to a State pursuant to paragraph (a)(1) of this section shall be made by a transfer from the extended unemployment compensation account in the Unemployment Trust Fund to the account of the State in such Fund, in accordance with section 204(e) of the Act.

(b) *Payments not to be made to States.* Because a State law must contain provisions fully consistent with sections 202 and 203 of the Act, the Department shall make no payment under paragraph (a), whether or not the State is certified under section 3304(c) of the Internal Revenue Code of 1954—

(1) In respect of any regular or extended compensation paid to any individual for any week if the State does not apply—

(i) The provisions required by section 202(a)(3), relating to failure to accept work offered or a referral to work or to actively engage in seeking work, or section 202(a)(4), relating to terminating a disqualification, as to weeks beginning after March 31, 1981;

(ii) The provisions required by section 202(a)(5), relating to qualifying employment, as to weeks beginning after September 25, 1982; or

(2) In respect of any regular or extended compensation paid to any individual for any week which was not payable by reason of the provision required by section 202(c), as to weeks which begin after May 31, 1981, or May 31, 1982, as determined by the Department with regard to each State.

(c) *Payments not to be reimbursed.* The Department shall make no payment under paragraph (a) of this section in respect of any regular or extended compensation paid under a State law—

(1) As provided in section 204(a)(1) of the Act, if the payment made was not sharable extended compensation or sharable regular compensation as

defined in subsections (b) and (c) of section 204, or extended compensation as defined in section 205(3).

(2) As provided in section 204(a)(2)(A) of the Act, if the State is entitled to reimbursement for the payment under the provisions of any Federal law other than the Act.

(3) As provided in section 204(a)(2)(B) of the Act, if—

(i) For the first week in an individual's eligibility period with respect to which Extended Benefits or sharable regular benefits are paid to the individual, that first week begins after December 5, 1980, and the State law provides for the payment (at any time or under any circumstances) of regular compensation to any individual for the first week of unemployment in any such individual's benefit year.

(ii) In the case of a State with respect to which the Department finds that legislation is required in order to end the payment (at any time or under any circumstances) of regular compensation for any such first week of unemployment, this paragraph (c)(3) shall not apply to the first week in an individual's eligibility period which began before the end of the first regularly scheduled session of the State legislature that ends after January 4, 1981.

(iii) In the case of a State law which is changed so that regular compensation is not paid at any time or under any circumstances with respect to the first week of unemployment in any individual's benefit year, this paragraph (c)(3) shall not apply to any week which begins after the effective date of such change in the State law.

(iv) In the case of a State law which is changed so that regular compensation is paid at any time or under any circumstances with respect to the first week of unemployment in any individual's benefit year, this paragraph (c)(3) shall apply to all weeks which begin after the effective date of such change in the State law.

(4) As provided in section 204(a)(2)(C) of the Act, for any week with respect to which Extended Benefits are not payable because of the payment of trade readjustment allowances, as provided in section 233(d) of the Trade Act of 1974, and § 615.7(d). This Paragraph (c)(4) applies to any week which begins after October 31, 1982, or 1983, as determined by the Department in regard to each State.

(5) As provided in section 204(a)(3) of the Act, to the extent that such compensation is based upon employment and wages in service performed for governmental entities or instrumentalities to which section

3306(c)(7) of the Internal Revenue Code of 1954 (26 U.S.C. 3306(c)(7)) applies, in the proportion that wages for such service in the base period bear to the total base period wages.

(6) If the payment made was not sharable extended compensation or sharable regular compensation, as defined in subsections (b) and (c) of section 204 of the Act, because the payment was not consistent with the requirement of—

(i) Section 202(a)(3) of the Act, and § 615.8 (e), (f), and (g);

(ii) Section 202(a)(4) of the Act, and § 615.8(c);

(iii) Section 202(a)(5) of the Act, and § 615.4(b).

(7) If the payment made was not sharable extended compensation or sharable regular compensation, as defined in subsections (b) and (c) of section 204 of the Act, because there was not in effect in the State an Extended Benefit Period in accord with the Act and this Part.

(8) As provided in section 204(a)(2)(D) of the Act, if the State does not provide for a benefit structure under which benefits are rounded down to the next lower dollar amount, for the 50 percent Federal share on the amount by which sharable regular or Extended Benefits paid to any individual exceeds the nearest lower full dollar amount. This paragraph shall apply to any sharable regular compensation or Extended Benefits paid to individuals whose eligibility periods begin on or after October 1, 1983, unless a later date, as determined by the Department, applies in a particular State under the grace period of section 191(b)(2) of Pub. L. 97-248.

(9) Any payment made to a claimant for any week with respect to which the claimant was either ineligible for or not entitled to the payment.

(d) *Effectuating authorization for reimbursement.* (1) If the Department believes that reimbursement should not be authorized with respect to any payments made by a State that are claimed to be sharable compensation paid by the State because the State law does not contain provisions required by the Act and this Part, or because such law is not interpreted or applied in rules, regulations, determinations or decisions in a manner that is consistent with those requirements, the Department may at any time notify the State agency in writing of the Department's view. The State agency shall be given an opportunity to present its views and arguments if desired.

(2) The Department shall thereupon decide whether the State law fails to

include the required provisions or is not interpreted and applied so as to satisfy the requirements of the Act and this Part. If the Department finds that such requirements are not met, the Department shall notify the State agency of its decision and the effect thereof on the State's entitlement to reimbursement under the provisions of section 204 of the Act.

(3) Thereafter, the Department shall not authorize any payment under paragraph (a) of this section in respect of any sharable regular or extended compensation if the State law does not contain all of the provisions required by sections 202 and 203 of the Act and this Part, or if the State law, rules, regulations, determinations or decisions are not consistent with such requirements, or which would not have been payable if the State law contained the provisions required by the Act and this Part or if the State law, rules, regulations, determinations or decisions had been consistent with such requirements. Loss of reimbursement for such compensation shall begin with the date the State law was required to contain such provisions, and shall continue until such time as the Department finds that such law, rules and regulations have been revised or the interpretations followed pursuant to such determinations and decisions have been overruled so as to accord with the Federal law requirements of the Act and this Part, but no reimbursement shall be authorized with respect to any payment that did not fully accord with the Act and this Part.

(4) A State agency may request reconsideration of a decision issued pursuant to paragraph (d)(2) of this section within 10 calendar days of the date of such decision, and shall be given an opportunity to present views and arguments if desired.

(5) Concurrence of the Department in any State law provision, rule, regulation, determination or decision shall not be presumed from the absence of notice issued pursuant to this section.

(6) Upon finding that a State has made payments for which it claims reimbursement that are not consistent with the Act or this Part, such claim shall be denied; and if the State has already been paid such claim in advance or by reimbursement, it shall be required to repay the full amount to the Department. Such repayment may be made by transfer of funds from the State's account in the Unemployment Trust Fund to the Extended Unemployment Compensation Account in the Fund, or by offset against any current advances or reimbursements to which the State is otherwise entitled, or

the amount repayable may be recovered for the Extended Unemployment Compensation Account by other means and from any other sources that may be available to the United States or the Department.

(e) *Compensation under Federal unemployment compensation programs.* The Department shall promptly reimburse each State which has paid sharable compensation based on service covered by the UCFE and UCX Programs (Parts 609 and 614 of this chapter, respectively) pursuant to 5 U.S.C. Chapter 85, an amount which represents the full amount of such sharable compensation paid under the State law, or may make advances to the State. Such amounts shall be paid from the appropriations or accounts established for those programs, rather than from the Extended Unemployment Compensation Account.

(f) *Combined-wage claims.* If an individual was paid benefits under the Interstate Arrangement for Combining Employment and Wages (Part 616 of this chapter) any payment required by paragraph (a) shall be made to the States which contributed the wage credits.

(g) *Interstate claims.* Where sharable compensation is paid to an individual under the provisions of the Interstate Benefit Payment Plan, any payment required by paragraph (a) of this section shall be made only to the liable State except as provided in paragraph (e) of this section.

#### **§ 615.15 Records and reports.**

(a) *General.* State agencies shall furnish to the Secretary such information and reports and make such studies as the Secretary decides are necessary or appropriate for carrying out the purposes of the Act and this Part.

(b) *Recordkeeping.* Each State agency will make and maintain records pertaining to the administration of the Extended Benefit Program as the Department requires, and will make all such records available for inspection, examination and audit by such Federal officials or employees as the Secretary or the Department may designate or as may be required by law.

(c) *Weekly report of Extended Benefit data.* Each State shall file with the Department within 10 calendar days after the end of each calendar week a weekly report entitled ETA 5-39, Extended Benefit Data. The report shall include:

(1) The data reported on the form ETA 5-39 for the week ending (date). Week-ending dates shall always be the Saturday ending date of the calendar

week beginning at 12:01 a.m. Sunday and ending 12:00 p.m. Saturday.

(2)(i) The number of continued weeks claimed for regular compensation in claims filed during the week ending (date). The report shall include intrastate continued weeks claimed and interstate continued weeks claimed (taken as agent State) but shall exclude interstate continued weeks claimed (received as liable State) and continued weeks claimed for regular compensation filed solely under 5 U.S.C. Chapter 85.

(ii) The report of the number of continued weeks claimed filed in the State for regular compensation shall not be adjusted for seasonality.

(3) The average weekly number of weeks claimed in claims filed in the most recent calendar week and the immediately preceding 12 calendar weeks.

(4) The rate of insured unemployment for the current 13-week period.

(5) The average of the rates of insured unemployment in corresponding 13-week periods in the preceding two years.

(6) The current rate of insured unemployment as a percentage of the average of the rates in the corresponding 13-week periods in the preceding two years.

(7) The 12-month average monthly employment covered by the State law for the first 4 of the last 6 complete calendar quarters ending prior to the end of the last week of the current 13-week period to which the insured unemployment data relate. Such covered employment excludes Federal civilian and military employment covered by 5 U.S.C. Chapter 85.

(8) The date that a State Extended Benefit Period begins or ends, or a report that there is no change in the existing Extended Benefit Period status.

(d) The State agency head shall submit to the Secretary, for his approval, the method used to identify and select the weeks claimed used in the determination of an "on" or "off" or "no change" indicator. Any change in the method of identification and selection of such weeks claimed constitutes a new plan which must be submitted for the Secretary's approval.

(Reporting and recordkeeping requirements and information collection requirements contained in paragraph (c) approved by the Office of Management and Budget under control number 1205-0028)

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